

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America,

-v-

Trevon Gross,

Defendant.

15-cr-769 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

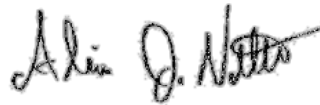
The Court is in receipt of the Government's April 14, 2020 letter in which the AUSAs indicate—without bringing themselves to expressly say so—that the Government chooses not to waive the statutory exhaustion requirement in this case. *See* Dkt. No. 765. Accordingly, as the Court stated in its April 13, 2020 Opinion and Order, Dkt. No. 764, if Mr. Gross remains incarcerated on May 2, 2020, the Court will then grant his motion for compassionate release and order him **immediately** released from the custody of the Bureau of Prisons on that date.

The Court—which presided over Mr. Gross's trial, sentenced him, and has now individually determined that Mr. Gross is neither a flight risk nor a danger to the community *and* that, due to his medical conditions, he is at a higher risk of severe illness if he were to contract COVID-19—deems the Government's discretionary decision not to waive the statutory exhaustion requirement, and thereby prolong Mr. Gross's time in custody during the height of the pandemic, both unnecessary and dangerous. Indeed, the unnecessary and discretionary delay by the United States Attorney's Office for the Southern District of New York endangers not only Mr. Gross, but the broader community as well, given the increased possibility that Mr. Gross contracts COVID-19 prior to his now inevitable release by May 2.

Because the Court will not permit a delay of his release beyond May 2, the parties are hereby ordered to meet and confer regarding Mr. Gross's release plan, including any necessary plans for a period of isolation either at USP Canaan prior to May 2 or upon his release. The parties shall also consult with the Probation Department about a proposed order of release. On or before April 20, the parties shall submit a joint letter to the Court outlining Mr. Gross's release plan, including plans for any period of isolation, as well as a proposed order of release.

SO ORDERED.

Dated: April 15, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", is positioned above a horizontal line.

ALISON J. NATHAN
United States District Judge